

## REMARKS

The enclosed is responsive to the Examiner's Office Action mailed on July 20, 2010. By way of the present response applicants have: 1) amended claims 1, 76, 78, and 80-81; 2) added claims 129-131; and 3) canceled claims 74, 75, 77, 79, and 82-128. Support for the amendment to the claims is found in the specification as originally filed – e.g., at least in paragraphs [0013], [0015], [0019], [0048], [0049], [0054]-[0059]. Support for new claims 129-131 is found in the specification as originally filed – e.g., at least in paragraphs [0051] and [0052]. No new matter has been added.

Reconsideration of this application as amended is respectfully requested.

### 35 U.S.C. §112 Rejections

Claim 77 stands rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. In the interest of furthering prosecution, applicants have canceled claim 77.

Claims 1, 76, 78, and 80-81 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being incomplete for omitting essential elements. In particular, the Examiner alleges that claim 1 is lacking structural elements that enable application of a label in a manner that is dependent upon the dimensions of the pack. Applicants respectfully disagree and submit that claim 1 is not lacking any essential structural elements. In the interest of furthering prosecution, applicants have amended claim 1 to clarify that the labelling station is arranged to position and orient the pack and the label applicator relative to one another, and wherein the

label applicator is arranged to apply the label on the pack in at least two discrete planes and that the computer passes information to the labelling station to allow the label applicator to determine the position orientation, and number of planes at which to apply the label, dependent upon the dimensions of the pack to be labelled. These features of the labelling station, label applicator, and computer provide structural elements which enable the application of the label dependent upon the dimension of the pack to be labelled.

Accordingly, applicants respectfully submit that the rejection of claims 1, 76, 78, and 80-81 has been overcome.

Claims 1, 76, 78, and 80-81 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. In particular, the Examiner argues that it is unclear if the claimed system functions based upon predetermined instructions or based upon pack dimensions. The Examiner further alleges that it is unclear what structure performs this function. Applicants respectfully disagree. As set forth in amended claim 1, the computer passes information to the labelling station to allow the label applicator to determine the position, orientation, and number of planes at which to apply the label, dependent upon the dimensions of the pack to be labelled. This information enables the label applicator to apply the label at the correct position, orientation, and number of planes dependent on the dimensions of the pack – e.g., by the dimensions of the pack being included in the information to allow the applicator to make the necessary decision, or by the information including labelling instructions, the decision having been made by the computer. This structure, i.e. the arrangement of the labelling station and the label applicator with

the information being sent from the computer, allows the system to apply the label in a number of different ways dependent on the dimensions of the pack.

The Examiner further alleges, in reference to claim 80, that the use of "remote" makes it unclear if the computer is a part of the system or not. In the interest of furthering prosecution, applicants have amended claim 80 to delete "remote" and clarify that the information is passed by the computer set forth in claim 1.

Accordingly, applicants respectfully submit that the rejection of claims 1, 76, 78, and 80-81 has been overcome.

#### Claim Rejections – 35 U.S.C. § 103

Claims 1, 76, 78, and 80-81 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,317,648 by Sleep et al. ("Sleep") in view of U.S. Patent No. 6,036,812 by Williams et al. ("Williams").

Applicants respectfully submit that Sleep and Williams fail to disclose a label applicator to apply a label to a pack, wherein the labelling station is arranged to position and orient the pack and the label applicator relative to one another, and wherein the label applicator is arranged to apply the label on the pack in at least two discrete planes, and a computer to enter an order for a pack and to pass information to the labelling station to allow the label applicator to determine the position, orientation, and number of planes at which to apply the label, dependent upon the dimensions of the pack to be labelled as set forth in amended claim 1.

Sleep, in contrast to claim 1, describes a pre-labeler puck handling station (PHS) that determines the size of the bottle carried by each puck and routes the

bottles accordingly to a specific labeler. (Sleep, col. 10, lines 33-36). In other words, Sleep describes multiple line branches that provide a different labeler for each different bottle size rather than adapting a label applicator depending on the dimensions of the pack. Sleep is silent regarding a labeler being arranged to apply the label on the pack in at least two discrete planes. There is no suggestion in Sleep that the multi-branch system is able to apply the label to the pack such that one or more of the position of the label on the pack, the orientation of the label relative to the pack, or the number of planes of the pack to which the label is applied is variable, as set forth in the claim 1.

The Examiner notes that the multi-branch system described by Sleep is being treated as a single labeling station and therefore is analogous to corresponding feature in claim 1. Applicants respectfully disagree and submit that this interpretation of Sleep is inconsistent with Sleep's own description of its system. Sleep specifically refers to different labelers (i.e., a plurality, not a single labeler) being used for each different size bottle. Even if Sleep's plurality of labelers were treated as the equivalent of the claimed label applicator as alleged by the Examiner, Sleep's plurality of labelers are not described as being arranged to apply the label on the pack in at least two discrete planes. Sleep also fails to disclose a computer to pass information to the labelling station to allow the label applicator to determine the position, ***orientation, and number of planes*** at which to apply the label, ***dependent upon the dimensions of the pack*** to be labelled, as set forth in amended claim 1.

Williams describes a system to dispense pills into bottles using a robot arm. The robot arm retrieves the bottle to be filled, places it on a labeller to be labelled

and then places it on a dispenser to be filled with the selected pills. Williams recognizes that different size bottles will need to be handled differently, but only in respect to the robot arm. (Williams, column 3, lines 49-50). There is no recognition that different bottles are labelled differently or applying a label to two discrete planes of a bottle. Therefore, Williams also fails to disclose a label applicator being arranged to apply the label on the pack in at least two discrete planes and a computer to pass information to the labelling station to allow the label applicator to determine the position, orientation, and number of planes at which to apply the label, dependent upon the dimensions of the pack to be labelled.

The Examiner argues that the claim 1 recites intended operations and functions rather than structural differences from the cited art and cites *Ex Parte Mashum*. Applicants respectfully disagree. For example, a label applicator **arranged to** apply the label on the pack in at least two discrete planes, at least inherently, if not explicitly, sets forth a physical arrangement. In *Ex Parte Mashum*, a claim to a mixer was rejected over a reference which taught all of the claimed limitations except the mixer was only partially submerged in the developer material rather than completely submerged. The amount of submersion was found to be immaterial to the structure of the claimed mixer. (MPEP §2114). In contrast to *Mashum*, the ability to applying a label in at least two discrete planes is material to the structure of the claimed system. Applicants, therefore, respectfully submit that Examiner has misapplied *Ex Parte Mashum*.

Accordingly, applicants respectfully submit that the rejection of claim 1 has been overcome.

Given that claims 76, 78, and 80-81 are dependent upon claim 1, and include additional features, applicants respectfully submit that the rejection of claims 76, 78, and 80-81 has been overcome for at least the reasons set forth above.

Claims 1, 76, 78, and 80-81 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,672,356 by Jenkins et al. ("Jenkins") in view of Williams. Applicants do not admit that Jenkins is prior art and reserve the right to swear behind Jenkins at a later date.

Jenkins describes a pallet labeler system. While Jenkins describes applying a label to a pallet at a predetermined position defined by label position data, it does so independently of the pallet size. (Jenkins, claims 1 and 11). In other words, Jenkins fails to disclose ***a label applicator arranged to apply the label on a pack in at least two discrete planes***, and a computer to enter an order for a pack and to pass information to the labelling station to allow the label applicator to determine the position, orientation, ***and number of planes at which to apply the label, dependent upon the dimensions of the pack*** to be labelled, as set forth in amended claim 1. As argued above, Williams also fails to disclose these claim features.

Accordingly, applicants respectfully submit that the rejection of claim 1 has been overcome.

Given that claims 76, 78, and 80-81 are dependent upon claim 1, and include additional features, applicants respectfully submit that the rejection of claims 76, 78, and 80-81 has been overcome for at least the reasons set forth above.

### New Claims

Given that new claims 129-131 are dependent upon claim 1, and include additional features, applicants respectfully submit that claims 129-131 are patentable over Sleep, Williams, and Jenkins for at least the reasons set forth above.

### CONCLUSION

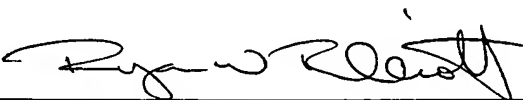
Applicants respectfully submit that in view of the amendments and arguments set forth herein, the applicable objections and rejections have been overcome. Applicants reserve all rights under the doctrine of equivalents.

Pursuant to 37 C.F.R. 1.136(a)(3), applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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